

WARRANTLESS SEARCHES OF VEHICLES

Students often ask about when they can search vehicles without warrants and where they can look during the search. In an effort to provide guidance on this issue, the following chart is provided. As used below, a “container” is “any object capable of holding another object, and includes closed or opened glove compartments, consoles, or other receptacles located anywhere within the passenger compartment, as well as luggage, boxes, bags, clothing, and the like.”

New York v. Belton.

Basis	Purpose	Requirements	Passenger Compartment	Unlocked Containers	Locked Containers	Trunk
<u>Terry Frisk</u>	Preventive Search for Weapons (Officer Safety)	1. Reasonable Suspicion for Stop and 2. Reasonable Suspicion Armed and Dangerous	Yes	Yes	No	No
Search Incident to Arrest	Search for: 1. Weapons 2. Evidence 3. Means of Escape	1. Valid Arrest 2. Search Must Be Contemporaneous	Yes	Yes	Yes*	No
<u>Carroll Doctrine</u>	1. Inherent Mobility of Vehicles 2. Reduced Expectation of Privacy	1. Mobile Conveyance 2. Probable Cause	Yes**	Yes***#	Yes***#	Yes**
Consent	Search When Officer Lacks Probable Cause	1. Voluntary 2. Actual/Apparent Authority	Yes***	Yes***	Yes***	Yes***
Inventory	1. Protect Owner’s Property 2. Protect Police From Claims Over Lost or Stolen Property 3. Protect Police From Potential Dangers	1. Lawful Impoundment of Vehicle 2. Standardized Inventory Policy	Yes+	Yes+	Yes+	Yes+

* While the Court in Belton did not specifically discuss locked containers, subsequent federal cases can be interpreted to allow searching locked containers during a search incident to arrest.

** The scope of search always applies. Thus, you may only search in locations where what you are looking for could be found.

- *** Consent may always be limited in scope by the individual. Thus, if the individual were to limit the consent given (i. e., “You can search my car, but not the trunk,” then portions of the vehicle may still be off limits).

- # If an officer has probable cause to believe that an item subject to seizure is located in a specific container placed in a vehicle, the officer may search only that container. Probable cause in the container does not give rise to probable cause to search the entire car. California v. Acevedo. However, if evidence is uncovered in the container, the individual may be arrested and a search incident to arrest may be conducted. Further, if the vehicle is lawfully impounded, officers are permitted to inventory its contents.

- + The permissible scope of an inventory search is dependent on the standardized policy of the agent conducting the inventory. Thus, if the standardized policy permitted officers to inventory the contents of either locked or unlocked containers, the inventory search would be reasonable under the 4th Amendment. See Colorado v. Bertine and Florida v. Wells.